

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF OKLAHOMA

FLOYD PATTERSON, JR., as)
Special Administrator of the)
Estate of FLOYD PATTERSON)
III, deceased)

Plaintiff)

-vs-

ANDY SIMMONS, in his)
official capacity, et al.)

Defendants)

No. 20-CV-040-RAW

DEPOSITION OF JOHN ROBERT FRAZIER

TAKEN ON BEHALF OF THE PLAINTIFF

IN MUSKOGEE, OKLAHOMA

ON NOVEMBER 12, 2021

REPORTED BY: SUSAN G. STOTTS, C.S.R.

1 Q. And do you recall who made that decision to
2 hire you there?

3 A. The town council.

4 Q. And do you know who was on the town council
5 at the time?

6 A. Bob Boatman, Jerry Harris, Tim Murphy,
7 Michael Sharpe, and Tim Smith.

8 Q. And prior to going to work at the Fort
9 Gibson Police Department, where were you employed?

10 A. The Muskogee County Sheriff's Office.

11 Q. In what capacity?

12 A. As the sheriff.

13 Q. And in what period of time did you serve as
14 the sheriff of Muskogee County?

15 A. From January of 2017 until, I believe,
16 February of 2020.

17 Q. Who did you replace when you began serving
18 in January of '17?

19 A. Sheriff Charles Pearson.

20 Q. Had you worked at the Muskogee County
21 Sheriff's Office prior to becoming the sheriff?

22 A. Approximately a month before I actually was
23 sworn in. I came in about a month early.

24 Q. Okay. But prior to winning the election,
25 had you ever worked there?

1 opinion and it being an untrue statement.

2 Q. So let's focus on what you thought were
3 untrue statements.

4 A. I don't believe we were understaffed at that
5 time. I believe that was stated in one or two of the
6 depositions. I think that's the main thing.

7 Q. And that was routinely discussed with you?
8 Do you recall reading that that was routinely
9 discussed with you, the staffing?

10 A. Yes. That was never discussed with me.

11 Q. Do you dispute that testimony?

12 A. Yes.

13 Q. Why do you think those individuals are lying
14 about that?

15 A. I don't know.

16 Q. Can you think of any possible motivation
17 that those employees would have to lie about that?

18 A. No.

19 MR. ARTUS: Let's take a break.

20 (A short break was had.)

21 MR. SMOLEN: I'm going to show him
22 Plaintiff's Exhibit No. 14. It's the Muskogee County
23 Detention Center policies and procedures. It's DDR254.

24 MS. DARK: Got it. Thanks.

25 Q. (By Mr. Smolen) Do you recognize this policy

1 and procedure from the Muskogee County Detention Health
2 Care Administration?

3 A. Yes.

4 Q. And this was the policy and procedure that
5 was in place at the time Mr. Patterson died, correct?

6 A. Yes.

7 Q. First sentence under Procedures -- second
8 sentence, "The jail's health care plan has been
9 developed with the assistance of the jail's physician
10 and complies with State standards."

11 Was there a jail physician at the time that
12 you were the sheriff of Muskogee County?

13 A. Yes. I believe Nurse Practitioner Michael
14 Smith.

15 Q. Okay. He was not a physician, correct?

16 A. He was a nurse practitioner.

17 Q. So there was not a physician at the jail,
18 correct?

19 A. There was a nurse practitioner.

20 Q. Which is not a physician, correct?

21 A. That's correct.

22 Q. And tell me, since you didn't have a
23 physician and you were using a nurse practitioner,
24 what did the nurse practitioner do to develop the jail
25 health care administration plan?

1 correct?

2 A. Yes. That's what the policy says, yes.

3 Q. If you didn't follow the policy, do you know
4 how the budget was determined?

5 A. Yes.

6 Q. How?

7 A. I, ultimately, made the budget.

8 Q. And what did you make the budget based on?

9 A. The budgets previously, also what was spent,
10 money coming in, money coming out.

11 Q. Who did you deem to be the medical
12 supervisor after Turn Key left the Muskogee County
13 jail?

14 A. Ellen Arnold.

15 Q. And did she remain the medical -- what you
16 believe to be the medical supervisor until the time
17 you left the sheriff's office?

18 A. Yes.

19 Q. We're -- it says, "The medical supervisor
20 will ensure that outside medical resources and
21 specialized medical treatment is available to the
22 jail's health care program with a full range of health
23 care options for all inmates." Do you see that?

24 A. Yes.

25 Q. And was Ellen Arnold in charge of that?

1 Q. I'm going to look at Page 102. It's DDR2102
2 under Medical Screening. Are you with me?

3 A. Yeah.

4 Q. It says, "The medical staff will screen all
5 inmates if available. If not, the intake officer will
6 interview the individual committing the prisoner and
7 the prisoner to obtain as many items of information
8 required by the medical intake screening form as
9 possible," correct?

10 A. Yes.

11 Q. It goes on to say that, "They will also
12 determine if the prisoner is in need of medical
13 treatment," correct?

14 A. Yes.

15 Q. You did not have medical staff that were
16 present during the weekends; is that correct?

17 A. No. That's not correct.

18 Q. Okay. Who was your medical staff that was
19 available during the weekends?

20 A. At this particular time or --

21 Q. Yes, sir.

22 A. I believe Ms. Petroski. I don't know if I'm
23 saying her name right. We also had Ellen Arnold that
24 was on call. We had Mike Smith that was on call. We
25 had the emergency room that was on call.

1 Q. Those were individuals that were on call,
2 but they certainly weren't there doing medical
3 screenings, were they?

4 A. That's correct.

5 Q. And you identified Ms. Petroski; is that
6 right?

7 A. I believe that's her name.

8 Q. And did you have an understanding that she
9 was conducting inmate medical screenings?

10 A. It's my understanding that the intake
11 officer was doing the screening.

12 Q. For Mr. Patterson?

13 A. Yes.

14 Q. Okay. And I'm just talking about in
15 general. Was Ms. Petroski, to your knowledge, doing
16 intake health screening on inmates?

17 A. I don't know.

18 Q. Was your jail staff specifically trained on
19 medical?

20 A. Medical in general?

21 Q. Yeah.

22 A. Yes.

23 Q. Okay. And how were they trained on medical?

24 A. Through their jail school.

25 Q. And what did their jail school train them as

1 it pertained to medical?

2 A. I'm not for sure all of the class
3 prerequisites.

4 Q. How about any of them?

5 A. I know that they were -- had a class on
6 diabetes. I'm pretty sure they had a class on CPR.
7 That's all that I can think of right off the top of my
8 head.

9 Q. Okay. I want to look at DDR No. 2, Page 143
10 under your Health Services Policies and Procedures.
11 Are you there?

12 MR. ARTUS: DDR what?

13 MR. KELLER: DDR2, Page 153.

14 Q. (By Mr. Smolen) Are you with me? Do you see
15 this Health Services Policy and Procedure?

16 A. Yes.

17 Q. This is a policy and procedure that was in
18 place during the time that you were the sheriff of
19 Muskogee County; is that correct?

20 A. Yes.

21 Q. And, No. 1, it says, "Inmates are screened
22 upon arrival at the jail by health-trained staff or
23 qualified healthcare personnel." Do you see that?

24 A. Yes.

25 Q. And the purpose of that was to provide

1 continuity of care. That's your understanding,
2 correct?

3 A. Yes.

4 Q. Okay. And was that happening?

5 A. Yes.

6 Q. And that they were to identify those who
7 pose a threat to their own or other's health or safety
8 or who may require immediate medical interventions,
9 correct?

10 A. Yes.

11 Q. What steps were being taken at the Muskogee
12 County jail in 2018 to ensure that was happening?

13 A. Within 48 hours of an inmate being brought
14 into the jail, they were seen by the medical staff and
15 talked over if they had any kind of preexisting
16 injuries, any health issues at the time. Then a
17 treatment plan or whatever was done to help with their
18 medical conditions.

19 Q. Do you see anywhere in the policy that
20 states you have 48 hours to screen an inmate to
21 determine whether or not they may require medical
22 intervention?

23 A. Yes, I believe so.

24 Q. Where do you see that in the policy?

25 A. I don't know, but I've read it.

1 A. No.

2 Q. Do you believe that it was appropriate for
3 Mr. Patterson to never have his blood sugar taken at
4 the Muskogee County jail from the time he was admitted
5 until his death?

6 A. I think that he should have had his blood
7 sugar taken.

8 Q. He should have had his blood sugar taken
9 immediately upon admission, correct?

10 A. Yes.

11 Q. No. 1 and 2 indicates that, "Inmates shall
12 be refused admission to the jail if medically unstable
13 and sent to the hospital for evaluation and treatment.
14 Prebooking medical screening criteria are used to
15 guide the determination of medical stability and shall
16 be approved by medical authority and seen fit for
17 incarceration." Do you see that?

18 A. Yes.

19 Q. What was, to your knowledge, the prebooking
20 medical screening? How did the criteria -- how was it
21 used to determine whether or not an inmate was
22 medically stable?

23 A. So that's the form that I was talking about
24 before. I believe there was a form out on the back
25 door where people brought prisoners in. There was

1 answering the questions"?

2 A. Well, for example, like I said earlier, if
3 you're coming into the jail and I ask you if you have
4 blood pressure problems and you say, "No, I don't have
5 any," they are probably not going to take your blood
6 pressure. If you had blood pressure problems, you're
7 going to say, "Yes, I have a problem," and then we're
8 going to go from there.

9 Q. Well, when you say "go from there," wouldn't
10 you agree with me they should immediately have their
11 blood pressure assessed?

12 A. Yes, at that time. If they said they had
13 blood pressure problems, yes.

14 Q. Also, if someone says they are diabetic,
15 they should have their blood sugar taken, correct?

16 A. Yes.

17 Q. They should have their vitals taken,
18 correct?

19 A. Yes.

20 Q. You understood an inmate who was presented
21 to the Muskogee County jail who was diabetic and had
22 identified as being diabetic were deemed to be
23 patients with special health needs or chronic care?

24 A. Yes.

25 Q. What was your understanding of the Muskogee

1 County jail's responsibility as it pertained to
2 evaluating special needs patients such as patients who
3 had identified as being diabetic?

4 A. My understanding is that the intake officer,
5 when he asked the questions, if they did say they were
6 diabetic, for example, they would let the medical
7 personnel know as soon as possible.

8 Q. Did you not have any expectation that the
9 medical personnel would review the intake screening
10 forms?

11 A. Yes.

12 Q. You had that expectation, didn't you?

13 A. I would think so, yes.

14 Q. And once it was identified that an inmate
15 was, in fact, special needs, special health needs or
16 needed chronic care, what did you understand the
17 policy of the Muskogee County jail to be?

18 A. I believe they are put in a certain area,
19 and then they will see the medical personnel as soon
20 as possible to be able to get the proper care.

21 Q. Okay. Your policy states that "the HCP,"
22 that's the healthcare provider, "would evaluate all
23 special needs patients on a continuous basis to
24 determine the need for continued services, frequency
25 of periodic care assessments for special treatment and

1 to update the plan accordingly."

2 That's what your written policy states,
3 correct?

4 A. Yes.

5 Q. To your knowledge, was that happening? Was
6 there a continuous monitoring of inmates with special
7 needs at the Muskogee County jail during your tenure
8 there?

9 A. Yes.

10 Q. Do you have any indication that
11 Mr. Patterson was continuously monitored after he
12 identified as being special medical needs?

13 A. No.

14 Q. Do you believe it was happening for other
15 inmates; it just didn't happen for Mr. Patterson?

16 A. Yes.

17 Q. Okay. What evidence do you have to
18 substantiate that your medical staff was developing a
19 special needs treatment plan that was continuously
20 monitored?

21 A. Just knowing, as I said before, going
22 through the day-to-day operations and talking to
23 medical staff, talking to inmates, and things like
24 that, knowing that they are being taken care of.

25 Q. Where would their continuous needs be

1 Q. We talked earlier at the beginning of the
2 deposition about the whited-out old Turn Key protocols
3 that were being used at the jail during your tenure
4 after Turn Key left. Do you recall those questions?

5 A. Yes.

6 Q. I'm assuming that the whitening out and the
7 adoption of these policies and protocols by your jail
8 staff and medical staff after Turn Key left happened
9 soon after they left; is that right?

10 A. Yes.

11 Q. I want to look at Turn Key DDR2, 207.

12 MR. SMOLEN: Jessica, can you hear me okay?

13 MS. DARK: Yeah. You said 207?

14 MR. SMOLEN: Yeah.

15 MS. DARK: Thanks.

16 Q. (By Mr. Smolen) Do you know what a diabetic
17 flow sheet is?

18 A. Not without looking at that, no.

19 Q. Do you know the way in which the diabetic
20 flow sheet was to be used at the Muskogee County jail
21 during your tenure there?

22 A. Not exactly, no.

23 Q. Do you know who would have been responsible
24 for ensuring the diabetic flow sheet was adequately
25 maintained?

1 A. Well, this report that I generated was for
2 criminal purposes. There was also -- when I spoke
3 with District Attorney Loge, he advised that I do the
4 criminal side of the investigation and have someone
5 else, the undersheriff, Terry Freeman, do the inside
6 investigation to see what policies and stuff were.
7 So, I guess, the long answer is, yes, there were two
8 people terminated as a result of this investigation.

9 Q. Okay. Mr. Freeman did a separate
10 investigation; is that correct?

11 A. I'm not for sure if he did or not.

12 Q. I thought you just said he did the
13 investigation into the administrative policies and
14 violations?

15 A. Well, he was supposed to, yes.

16 Q. Well, did he?

17 A. I'm not for sure. I don't know if he went
18 off of my paperwork. I'm not for sure.

19 Q. It's possible that your criminal
20 investigation was also used to discipline employees
21 who you felt like were in violation of policy?

22 A. Yes.

23 Q. And what employees did you discipline?

24 A. Robert Reynolds and Jody Matthews.

25 Q. And what was the basis for your decision to

1 discipline them?

2 A. They were the supervisors on shift at the
3 time, and they were ultimately responsible for what
4 happened at the jail and what their employees that
5 worked under them did or didn't do.

6 Q. There were numerous violations by your
7 medical staff. We've gone through those, correct?

8 A. I don't know that there was at that time.

9 Q. What do you mean you don't know if there was
10 at that time?

11 A. Because they didn't know he was diabetic.

12 Q. The policies required them to know, correct?

13 A. Yes.

14 Q. They failed to follow the policies and learn
15 of his diabetic condition, correct?

16 A. No.

17 Q. Can you explain what you mean by "no" to the
18 jury?

19 A. Yes. So the intake officer was asking the
20 questions. Mr. Patterson did say that he was
21 diabetic, so it is noted on the intake sheet. So at
22 that point in time, the intake sheet, instead of him
23 notifying medical personnel as soon as possible like
24 he's supposed to, he just put it in the file with the
25 other intake sheets for them to review, and within 48

1 hours they will get those sheets, and they will see
2 the inmates and see what their condition is. So, at
3 the time, they did not know he was diabetic.

4 Q. Sir, your policy required them to actually
5 review his intake and his medical file, correct?

6 A. Yes.

7 Q. They did not do that, correct?

8 A. Not at that time, no.

9 Q. That was a policy violation, correct?

10 A. No, it was not.

11 Q. You don't view that to be a policy
12 violation?

13 A. No.

14 Q. We'll get back into that here in a minute.

15 A. Okay.

16 Q. DO Steven Gilley, you said he failed to
17 provide information to medical staff, correct?

18 A. Yes.

19 Q. Policy violation, correct?

20 A. Yes.

21 Q. Did you discipline Steven Gilley?

22 A. I don't believe he was disciplined, no.

23 Q. Even though you acknowledge he was in
24 violation of the policy?

25 A. Yes.

1 chest pain," all of those.

2 Q. (By Mr. Smolen) Sir, the document indicates the
3 guidelines for FITS, yes?

4 A. Yes.

5 Q. Those are guidelines for initial admission
6 into this facility, correct?

7 A. Yes.

8 Q. Not for special needs inmates but for all
9 inmates, correct?

10 A. Correct.

11 Q. You and I can agree that the document
12 indicates, No. 4, that if the blood pressure is over
13 180 over 100, they should not be admitted, correct?

14 A. That's correct.

15 Q. The document indicates, if they have an
16 FSBS, a finger stick blood sugar test, over 500, they
17 should not be admitted, correct?

18 A. Yes.

19 Q. The document indicates if they have an O2
20 saturation under 88 percent they should not be
21 admitted into your facility, correct?

22 A. That's correct.

23 Q. And it's been your practice at the Muskogee
24 County jail during the time that it was your tenure
25 there to not require vital signs be taken on all

1 MR. SMOLEN: Steve Gilley?

2 Q. (By Mr. Artus) When he told Steve Gilley he was
3 diabetic, Gilley should have reported that to Petroski;
4 is that correct?

5 MR. SMOLEN: Objection to form.

6 THE WITNESS: Correct.

7 Q. (By Mr. Artus) Petroski should, on her own,
8 have looked at the intake form herself, right?

9 A. Yes.

10 Q. And that was violation of policy, wasn't it?

11 A. Yes.

12 Q. With regard to the hourly checks not being
13 done, if they weren't doing the hourly checks, that
14 would have been a violation of policy, and you
15 disciplined people for that, right?

16 A. Yes.

17 Q. And -- but we also -- at the jail you also
18 have a backup that somebody is watching the videos in
19 that jail the whole time, right?

20 A. Yes.

21 Q. I mean, I understand there are other videos
22 they are watching, too, but there's another set of
23 eyes on there, too, not just the hourly checks, right?

24 A. Correct.

25 Q. If someone saw Mr. Patterson throwing up and

1 didn't report it to medical, that would have been a
2 violation of policy, too, correct?

3 A. Yes.

4 Q. And with regard to Nurse Ellen, when she was
5 called down there on Monday at 10:00 a.m. and she
6 started to do her assessment and then she left, should
7 she have looked him up to see what his medical intake
8 form said?

9 A. Yes.

10 Q. If she didn't, would that be a violation of
11 your policy?

12 A. Yes.

13 Q. We've taken the deposition of APRN Smith,
14 and he testified that he reviewed the policies that
15 were in place for Turn Key prior to them being
16 approved by you at the jail; is that your memory?

17 A. Yes.

18 Q. So did you get -- did you consult with him
19 to find out are these going to be okay to keep using?

20 A. Yes.

21 Q. And with regard to the medical supervisor
22 being Nurse Ellen, is there any requirement from the
23 State or the jail inspector that you have a doctor
24 versus an LPN being in charge of the medical?

25 A. No.

1 Q. Is there any requirement by the State or the
2 jail inspector that you have a doctor as opposed to an
3 APRN being a healthcare provider?

4 A. No.

5 Q. With regard to incidents at the jail since
6 you took office, when did you say -- that was in
7 January of 2017?

8 A. Yes.

9 Q. Through the time when Mr. Patterson passed
10 away on June 18th, 2018, was there an ongoing or a
11 problem at the jail with misidentifying people who
12 came in who are diabetic and the jail not being able
13 to recognize, hey, these are diabetics and confusing
14 them with someone who is intoxicated; is that a
15 problem that has happened?

16 A. No.

17 Q. Is this the first incident that has occurred
18 since you were sheriff?

19 MR. SMOLEN: Objection. Form.

20 THE WITNESS: Yes.

21 Q. (By Mr. Artus) With regard to the jail, does it
22 have an area in the jail where medical exams are done or
23 taken like for doing sick call?

24 A. Yes.

25 Q. And with regard to the plan -- the health

1 care plan at the jail, is the health care plan at the
2 jail involved in doing sick calls every day, Monday
3 through Friday with an LPN?

4 MR. SMOLEN: Objection to form.

5 THE WITNESS: Yes.

6 Q. (By Mr. Artus) Does it also include sick calls
7 with APRN Nurse Smith on Tuesdays through Fridays at the
8 time of this incident?

9 MR. SMOLEN: Object to the form.

10 THE WITNESS: Yes.

11 Q. (By Mr. Artus) And did it also require and
12 provide for Nurse Smith to diagnose and prescribe
13 medications for inmates who had conditions that needed
14 that?

15 MR. SMOLEN: Object to the form.

16 THE WITNESS: Yes.

17 Q. (By Mr. Artus) And did it require that the
18 medical staff chart the treatment that they gave to the
19 inmates?

20 MR. SMOLEN: Object to the form.

21 THE WITNESS: Yes.

22 Q. (By Mr. Artus) And did the jail send inmates
23 out to other providers if recommended by Nurse Smith?

24 MR. SMOLEN: Object to the form.

25 THE WITNESS: Yes.